

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

October 2, 2012

Lyle W. Cayce  
Clerk

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No. 11-60410  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JEREMY YOUNG,

Defendant-Appellant

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Appeal from the United States District Court  
for the Northern District of Mississippi  
USDC No. 3:10-CR-54-1

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Before CLEMENT, ELROD, and GRAVES, Circuit Judges.

PER CURIAM:\*

The Opinion issued on September 18, 2012 is hereby withdrawn and this Opinion replaces it.

Jeremy Young pleaded guilty to possession with intent to distribute more than five grams of cocaine base and possession of a firearm during, in relation to, and in furtherance of drug trafficking. The district court sentenced him to 60 months in prison on the drug count—the mandatory minimum in effect at the time of Young’s offense conduct—and a consecutive 60-month term on the

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 11-60410

firearms count. The district court rejected Young's argument that the provisions of the Fair Sentencing Act of 2010 should apply to him. Young appeals that decision.

We held this matter in abeyance pending the outcome of *Dorsey v. United States*, 132 S. Ct. 2321 (2012). In light of *Dorsey's* holding that the FSA applies retroactively to those whose conduct occurred before the FSA's effective date of August 3, 2010, but who were sentenced after that date, we VACATE Young's sentence and REMAND this case for resentencing consistent with *Dorsey*.